



Security Council

Distr.: General
26 April 2002

Original: English

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 25 April 2002 from the Permanent Mission of Australia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Australia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999), and has the honour to present him with Australia's report on the implementation of Security Council resolution 1390 (2002), in accordance with the request contained in operative paragraph 6 of the latter resolution (see annex).



Annex to the note verbale dated 25 April 2002 from the Permanent Mission of Australia to the United Nations addressed to the Chairman of the Committee

Report of Australia to the Committee established pursuant to paragraph 6 of Security Council resolution 1267 (1999) regarding implementation of Security Council resolution 1390 (2002)

Operative Paragraph 2

Decides that all States shall take the following measures with respect to Usama bin Laden, members of the Al-Qaida organisation and the Taliban and other individuals, groups, undertakings and entities associated with them, as referred to in the list created pursuant to resolutions 1267 (1999) and 1333 (2000) to be updated regularly by the Committee established pursuant to resolution 1267 (1999) hereinafter referred to as "the Committee";

Sub-paragraph 2(a)

Decides that all States shall...(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;

1. Australia initially implemented the financial restrictions imposed on the Taliban and Osama bin Laden contained in SCR 1267 and SCR 1333 under the *Banking (Foreign Exchange) Regulations*. Following passage of SCR 1373, Australia established a new mechanism for the identification and freezing of terrorist assets based on the *Charter of the United Nations (Anti-terrorism Measures) Regulations*.

2. Clause 9(1) of the *Charter of the United Nations (Anti-terrorism Measures) Regulations* makes it an offence for a person who holds:

- an asset that is owned or controlled by a person or entity listed by the Minister in the *Commonwealth Gazette* as a person or entity mentioned in paragraph 1(c) of SCR 1373, or
- an asset that is listed by the Minister for Foreign Affairs in the *Commonwealth Gazette*, or
- an asset that is derived or generated from either of the above classes of assets,

to use or deal with the asset; or allow the asset to be used or dealt with, or to facilitate the use of the asset or dealing with the asset.

3. The Minister for Foreign Affairs issued the first two lists of proscribed persons and entities in the *Commonwealth Gazette* on 21 December 2001, and the third on 20 March 2002. This action effectively freezes the Australian assets of all persons and entities named in the list maintained by the Security Council committee established under SCR 1267 (the 1267 List) and such other organisations as the Australian

Government considers to fall with the definition contained in Operative Paragraph 1(c) of SCR 1373. Organisations that have been removed from the 1267 List because they are no longer under the control of the Taliban have been deleted from the corresponding Australian lists.

4. The Australian Government has established a Working Group on Australian Financial Controls on Terrorists and Sponsors of Terrorism to coordinate and implement the Commonwealth Government's financial control initiatives in relation to the blocking of terrorist funds. The Working Group comprises the Federal Departments of Foreign Affairs and Trade, the Treasury and the Attorney-General's Department, the Australian Federal Police (AFP), the Australian Security Intelligence Organisation (ASIO), the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Director of Public Prosecutions and the Reserve Bank of Australia. For more detailed information on Australia's measures to combat terrorist financing, see *Report of Australia to the Counter-Terrorism Committee of the United Nations Security Council* of 26 December 2001 (S/2001/1247).

Sub-paragraph 2(b)

Decides that all States shall... (b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case by case basis only that entry or transit is justified:

5. The Minister for Foreign Affairs has written to the Minister for Immigration and Multicultural and Indigenous Affairs requesting him to make new regulations under the *Migration Act 1958* to implement the travel restrictions imposed in this Sub-paragraph. Until these regulations come into effect, the Minister for Foreign Affairs will exercise his existing power under Public Interest Criteria 4003 of the *Migration Regulations 1994* to deny entry into Australia by persons referred to in the list maintained by the Security Council Committee established pursuant to SCR 1267 on the basis that such entry could prejudice Australia's relationship with another country.

Sub-paragraph 2(c)

Decides that all States shall... (c) Prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities:

6. Export controls under the *Customs (Prohibited Exports) Regulations 1958* cover a wide range of defence and related goods and technologies, nuclear related goods and goods and technologies with both civil and military applications. The controls also cover goods being exported after or for repair, and the temporary export

of items for demonstration or loan purposes. The list of goods controlled forms the Defence and Strategic Goods List (DSGL) and includes equipment, assemblies and components, associated test, inspection and production equipment, materials, software and technology.

7. Regulation 13E of the *Customs (Prohibited Exports) Regulations 1958* prohibits the export of goods listed in the DSGL without the permission of the Minister for Defence or his delegate, while Regulation 13CI prohibits the export to Afghanistan of arms or related materiel not listed in the DSGL without the permission of the Minister for Foreign Affairs. The Minister for Foreign Affairs has written to the Minister for Defence advising him of Australia's obligations under Security Council Resolution 1390 (SCR) and requesting that he exercise his powers under the *Customs (Prohibited Exports) Regulations 1958* accordingly.

8. The *Charter of the United Nations (Sanctions - Afghanistan) Regulations 2001* give extraterritorial effect to the arms embargo and the ban on military advice, assistance and training imposed in SCR 1333 against the Taliban. These Regulations are in the process of being amended to give effect to SCR 1390 by extending their application to the Al Qaida organisation and associated persons and entities referred to in the list maintained by the Security Council Committee established pursuant to SCR 1267.

9. More detailed information on Australia's export control regime, and a copy of the DSGL, is available on the Defence Materiel Organisation's website:

http://www.dmo.defence.gov.au/id/export/dsec/dld_dsgl.cfm